

PART VIII:

RESPONSES TO COMMENTS ON THE
DRAFT ENVIRONMENTAL IMPACT
STATEMENT

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ON THE
DRAFT ENVIRONMENTAL IMPACT STATEMENT

This part contains responses to all comments on the Draft Environmental Impact Statement (DEIS) received either in writing or at the Federal public hearing during the review period (August 5 - September 17, 1987) The State and Federal responses to these comments have been coordinated between the New Hampshire Coastal Program and the Federal Office of Ocean and Coastal Resource Management.

No attempt has been made to distinguish between comments made on the DEIS and those made on the Coastal Program, primarily because of the combined format of the document and the interrelated nature of most comments received.

Some comments have resulted in specific changes to the text of the DEIS. The pages changed, if not mentioned in the specific comment, are referenced in the responses to these comments.

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U. S. Environmental Protection Agency

Region I, Boston, Massachusetts

Elizabeth Higgins Congram

SECTION II Responses to State and Local Written Comments on DEIS

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New Hampshire Department of Transportation
Commissioner Wallace E. Stickney, P.E.

Conservation Law Foundation of New England, Inc.
Paul Hauge, Staff Scientist

New Hampshire Audubon Society
Jacquelyn L. Tuxill, Director

State of Maine
Executive Department
State Planning Office
David Keeley, Director
Maine Coastal Program

SECTION III Responses to Testimony at Federal Hearing on DEIS

Peggy McLaughlin
Dover Conservation Commission

Jack Mettee
Resident and Former N.H. Coastal Program Manager

Maryanna Hatch
Great Bay Trust

SECTION I - RESPONSES TO FEDERAL WRITTEN COMMENTS

Comments:

U.S. Department of Agriculture
Soil Conservation Service
David L. Mussulman

1. We find all items within our expertise to be adequately addressed.

2. Page 5-9 briefly describes the State Conservation Committee role under RSA 430-B but ignores the responsibilities that the Conservation Districts hold under the same RSA.

U.S. Department of Defense
Department of the Air Force
Thomas D. Sims

1. The document correctly identifies that "...Land owned or controlled by the Federal government is, by law, excluded from the coastal zone...Activities on such land which have direct effects on the coastal zone are subject to Federal Consistency Review provisions..."

2. In accordance with the February 1985 Department of Defence (DOD)/State of New Hampshire (Office of State Planning) Clearinghouse Memorandum of Understanding (MOU), Air Force submittals such as consistency determinations will be evaluated and commented on within 45 days of receipt by the State Clearinghouse, unless the review time period is extended by mutual agreement.

Responses:

No response necessary.

A description of the Districts has been added to the document.

No response necessary.

While Federally conducted activities directly affecting the coastal zone must be reviewed within 45 days, Federal regulations (15 CFR - Part 930) allow up to 6 months for the review of Federally permitted activities. The Memorandum of Agreement acknowledges this by reference to the Office of State Planning document, Federal Consistency and the New Hampshire Coastal Program, an Applicant's Guide. Due to our good working relationship with Pease Air Force Base on coastal issues, it is anticipated that any review of a Federally permitted activity would be conducted in a timely manner in order to allow resolution of issues.

Comments:

3. Continued close coordination between the State and Pease AFB on coastal issues like the subject DEIS is essential to protect Air Force and State interests. Please assure that Pease AFB is provided direct copies of all New Hampshire Coastal Program materials when they are first released to the public.

U.S. Department of Defense

Department of the Army
Corps of Engineers
Joseph L. Ignazio

1. In general, we are pleased with the document. We agree that Great Bay should be included in the Coastal Program. The document is clear and easy to follow. State requirements are nicely documented and referenced and referenced to State statute and policy. The responsibility of the various State agencies with regard to implementation and premitting are well presented.

2. Of concern is the November 15 to March 15 dredging window (Appendix B, Design and Construction Criteria). We disagree with the concept of an absolute dredging window, but rather windows should be developed on a case by case basis to protect specific environmental resources in a given area.

Responses:

Comment noted; Pease Air Force Base will be provided with all New Hampshire Coastal Program materials on or before their release to the public.

Thank you. No response necessary.

There is no absolute dredging window in the New Hampshire Code of Administrative Rules, Chapter Wt 600. Part Wt 606.01 identifies the dredge criteria which must be met if a project is to be considered a minimum impact project. If dredging is proposed outside the "window" then the project will be reviewed as a major or minor project. All projects are reviewed on a case by case basis with regard to the criteria at Wt 605.01. Dredging windows may be developed and required as a condition of the permit.

Comments:

3. In Chapter 3 please add to the following policies, under Key State and Federal Authorities:

Section 10 permits, River and Harbor Act of 1899 to policies (1) (2) (5) (12) (13) and (15).

Section 404 permits, Clean Water Act to policies (5) and (15).

Section 103 permits, Marine Protection, Research and Sanctuaries Act of 1972 to policy (14).

We request that the U.S. Army Corps of Engineers Regulatory Branch be notified when the coastal program becomes effective.

4. On page B-6 - Wt 601.05 Buffer Zone - this definition is not consistent with the definition given on page B-7 in item (k).

5. On page B-8 (d) Breakwaters - they are not just "offshore structures" they can be and often time are attached to the shore.

6. On page B-17 - Wt 601.01 DREDGE CRITERIA

Wt 601.01(a) What is the basis for this (dredge) window? Is it absolute? This restriction could substantially increase the cost of dredging projects.

Wt 601.01(b) It is not clear how dredging can impair the shore's ability to dissipate wave energy.

Responses:

Section 10, 404, and 103 permits have been added to the Key State and Federal Authorities of the suggested policies. The U.S. Army Corps of Engineers will notified if the proposed amendment is approved.

Part 601.05 Buffer Zone of Chapter Wt 600, New Hampshire Code of Administrative Rules, has been amended. Part 601.05 (k) has been deleted. See Appendix B, in this document.

As used in the New Hampshire Code of Administrative Rules, Chapter Wt 600, the word Breakwater is defined as an offshore structure. If a structure similar to a breakwater were constructed attached to shore it would be considered a Jetty (Wt601.09 (b)).

See above response to comment number 2.

Dredging can have a significant effect on the shore's ability to dissipate wave energy when it involves the removal or alteration of that shore.

Comments:

Wt 601.01(c) This criteria appears contradictory. It seems infeasible to dig a very deep and wide channel to accommodate one or two really large vessels that may only use it on rare occasions.

Wt 601.01(e) How are the cycles of beach and flat replenishment defined and who defines them?

Wt 601.01(g) How are berthing areas and access channels going to be handled?

Wt 601.01(h) At most sites major storms are not always unidirectional. It may not be possible to meet this criteria or to document that your project is in compliance with it.

On page B-18 - Wt 606.03 - BREAKWATER CRITERIA

Wt 606.03(c) It would be very difficult to design a breakwater which does not create or cause sediment deposits in an area where there is a substantial amount of littoral material moving around.

On page B-19 - Wt 606.06 GROIN AND JETTY CRITERIA

Wt 606.06(a)(2) This criteria may not be suitable in all cases especially where the native material is either very fine grained and susceptible to erosion or very coarse and not conducive to recreation use.

On page B-20 - Wt 606.07 SEAWALL, REVETMENT, AND BULKHEAD CRITERIA

Wt 606.07(b) Most of our projects have slopes of $1\frac{1}{2}$ to 1, or 2 to 1. Holding this flatter slope (of the criteria) would increase costs and impact more marine habitat.

Responses:

The intent is to dredge only the minimum amount necessary and to otherwise subject the applicant to the procedures for major and minor project review (i.e. public hearing).

The burden of proof rests with the applicant. Projects that cannot be shown to meet the criteria will not be classified as minimum impact.

See above response to Wt 601.01(e).

See above response to Wt 601.01(e).

Projects that cannot be shown to meet the criteria will not be classified as minimum impact.

See above response to Wt 606.03(c).

See above response to Wt 606.03(c).

Comments:

Wt 606.07(c) On Corps projects that are normally designed with steeper slopes than 3 to 1, this criteria (requiring sediment replacement by the owner on a periodic basis) would increase the operation and maintenance costs of the local sponsors who are normally required to bear these costs.

U.S. Department of Health and Human Services

Public Health Service
Vernon N. Houk, M.D.

We have reviewed the draft EIS for potential adverse human health effects and have no comments at this time.

U.S. Department of Interior
Office of Environmental Protection
Review
William Patterson

1. In general we concur with the development of the Great Bay Segment for inclusion into a combined Coastal Management Program for New Hampshire.

Responses:

See above response to Wt 606.03(c).

No response necessary.

No response necessary.

Comments:

2. The Coastal Program does not place any requirements on developers which are not in effect elsewhere in the State. This is cause for concern because we believe it will be difficult, if not impossible, to effectively implement some of the conservation oriented policies without a more comprehensive coastal management authority.

3. Policy #1 pertains in part to protection of tidal and freshwater wetlands. We believe this policy could be improved and strengthened if the Coastal Management Program adopted the EPA 404(b) (1) Guidelines as the applicable rule for determining which wetland alterations are allowable. This would also provide a greater degree of consistency with the Federal wetlands protection strategy for this area.

Responses:

The Coastal Zone Management Act (CZMA) does not require new State laws to specifically address the coastal area if existing State laws adequately manage all land and water uses that have a direct and significant impact on coastal waters.

The CZMA does require that the State coastal policies are enforceable and implementable. We find that all 16 NHCP policies contained in Chapter 3 of the FEIS are enforceable and implementable. The primary means to enforce the policies in the coast is through the Council on Resources and Development (CORD).

CORD, an interagency board created under RSA 162-C, is responsible for resolving differences or conflicts which result from the work of any agency represented on CORD. CORD has adopted the 16 coastal policies which will be the basis for resolving interagency conflicts. Decisions adopted by a majority of CORD are binding on the affected agency. Chapter 5 contains a fuller description of CORD. We find that CORD adequately binds each State agency the exercises statutory authority as part of the coastal program.

While it may be desirable for the State to adopt EPA Guidelines, we find the State's authority over tidal wetlands adequately meets the program approval requirements of section 305(b)(3) and the development and approval provisions 15CFR Part 923 of the CZMA. The State and Federal consistency provisions as well as OSP's coordinating role (see Chapter 5 of the NHCP) promises consistency with the Federal wetlands protection strategy in the coastal area.

Comments:

4. Policy #8 seeks to preserve the rural character of the Great Bay area. However, nothing in the Coastal Management Program precludes private investors from developing the necessary infrastructure improvements and connecting them to existing public facilities or in effect, giving them to local governments once developed. Thus large scale development of the rural sections of Great Bay is not precluded by the proposed plan. We believe more stringent and comprehensive controls are needed if the stated objectives are to be achieved.

Responses:

The Policy explanation acknowledges that this policy will not prevent privately financed infrastructure from being developed in the coastal zone surrounding the Great Bay estuary. The policy has been changed to more adequately reflect the emphasis on controlling public investment in infrastructure in the Great Bay area.

If private infrastructure, such as a waste packaging plant, is built, State law requires either the locality to maintain any such facility or that the facility be regulated as a public utility. In addition, State certification of capacity in pipes and plant hookups prohibits the overloading of existing sewer systems.

Privately financed and developed sewer facilities may foster cluster development. Cluster development is consistent with the policy's intent on preserving the rural quality and scenic beauty of Great Bay.

While it is conceivable that private interest would develop and finance the necessary infrastructure this has not been the case so far in New Hampshire. OCRM will monitor the implementation of this policy as part of the continuing Federal oversight role and as part of the required bi-annual programmatic review under Section 312 of the CZMA. If in practice the policy is inadequate in preserving the rural quality and scenic beauty of the Great Bay, OCRM will work with the State to change the policy to remedy any deficiencies.

Comments:

5. Policy #9. The proposed Coastal Management Program apparently does not consider future floodplain problems associated with storm events and eventual sea level rise. We believe the plan should be revised to require consideration of these factors. The plan should acknowledge that certain coastal developments should be phased out of existence at the end of normal economic life or after storm damage.

6. In our view the policy of the coastal program should be to gradually eliminate development from the high flood hazard areas. We also question the wisdom of allowing septic leach fields to be constructed in the 50-year floodplain. Why, for instance, is the 100-year flood boundary not used as a standard?

7. We believe Policy #11 pertaining to water quality could be enhanced by making the language consistent with the spirit and intent of Section 101(a) of the Clean Water Act, Public Law 92-500, as amended.

8. Policy #12 could be made more effective in our opinion, if it limited future energy developments to redevelopment of existing sites. Since New Hampshire has a small coastal zone, any new energy facility proposed for an undeveloped site would be such a drastic change in land use that it would likely generate considerable controversy. A policy designed to redevelop existing sites would likely cause less impact on the natural systems and be compatible with existing land use.

Responses:

See revised text.

See revised text.

While it may be desirable to be more restrictive, our current subsurface disposal regulation, prohibiting the construction of septic systems in the 50-year floodplain, is considered adequate to protect the environment from those systems.

Policy #11 has been changed to be more consistent with Section 101(a).

It is not the intent of the CZMA to limit future energy development only to redevelopment of existing sites. New Hampshire has identified energy facilities as in the national interest. The primary purpose of Section 306(c)(8) is to ensure that the national interest involved in the planning for and siting of a facility is adequately considered throughout the development, approval, and implementation of a State coastal program. The State has a process to adequately consider the national interest in siting energy facilities.

Comments:

9. Policy #13 pertaining to coastal (water) dependent uses needs to be more specifically addressed. The term, water dependent uses, is not specifically defined in Policy #13 or elsewhere in the Coastal Management Program. We believe this term should be specifically defined to enable reviewers and members of the public to understand precisely what types or kinds of development or activities would be allowed in or adjacent to coastal waters including wetlands. In its present form we interpret the policy as allowing intertidal areas, to be filled to develop storage sites for scrap iron, salt and other bulk cargo. Thus, this policy may be in conflict with Policy #1.

10. Policy #14 is designed to promote the beneficial uses of dredge material. Elsewhere in the document such as page 8-35, statements are made concerning extensive shoreline erosion due to various riprap and other shore stabilization projects. Statements are made that frequent beach nourishment is necessary to combat this problem. The Portsmouth Harbor improvement dredging project, currently authorized for construction, will require the disposal of about 320,000 cubic yards of gravel and 193,000 cubic yards of rock. The current proposal by the Corps of Engineers provides for this dredge material to be disposed at the Foul Area in Massachusetts Bay. The Fish and Wildlife Service has consistently recommended that this material be used for beneficial purposes such as beach nourishment and the development of habitat in coastal waters.

Responses:

We agree with the need to define water dependent uses. Policy #13 has been rewritten and the explanation now includes a definition of water dependent.

An extensive evaluation of potential dredge spoil disposal sites was undertaken by the Corps of Engineers for the material from the Piscataqua River (Portsmouth Harbor) Dredge Project. All affected and interested State agencies were brought together to review and suggest alternative sites. Beach re nourishment was considered but dismissed because of the gravel nature of the spoil. Habitat creation was not recommended by the New Hampshire Department on Fish and Game since there was considerable skepticism as to whether it was needed and what effect a new rocky site might have on fishermen. Ultimately it was decided that the material would be disposed of at the Cape Arundel Disposal Site off the Maine coast. Early in 1988, the Corps of Engineers requested the Governor to appoint a State Coordinator for all Corps activities in the State. The Director of OSP, as the Chairman of CORD, has been appointed by the Governor and will resolve disputes between State agencies concerning Corps dredge projects. This will help coordinate projects and determine the best method of spoil disposal.

Comments:

U. S. Department of Transportation
United States Coast Guard
Captain T. H. Robinson

1. We find the statement on page 3-12 dealing with WSPCC, a state agency, "regulating oil handling facilities and vessels, oil spill cleanup including terminal operations, transfer procedures, general safety provisions, oil spill reporting, containment and cleanup" to be misleading. Title 49 Code of Federal Regulations delegates this authority to the U. S. Coast Guard and Environmental Protection Agency respectively.

2. On page 3-48, it is stated that "the State Port Authority and the Wetlands Board regulate and preserve navigation in coastal waters, through assignment of moorings, and the permitting of boating related structures such as pilings, piers and warfs". If "permitting" implies assignment to an existing structure then it should be stated clearly. Otherwise, if a structure is to be placed in navigable waters of the United States, then an Army Corps of Engineers permit is required is required under Section 10 of the Rivers and Harbors Act of 1899, 33U.S.C. 403.

U. S. Department of Transportation
Secretary of Transportation
Eugene L. Lehr

Based on our review, this office has no comment.

Responses:

Page 3-12 has been changed to clarify State and Federal responsibilities.

State and Federal responsibilities have been clarified. See changes to page 3-52.

No response necessary.

Comments:

U. S. Environmental Protection Agency
Region I, Boston, Massachusetts
Elizabeth Higgins Congram

From the standpoint of EPA's jurisdiction and expertise, we believe approval of the program will not result in adverse environmental impacts. We have, therefore, rated this Draft EIS LO (Lack of Objections) in accordance with our national rating criteria.

Responses:

No response necessary.

SECTION II - RESPONSES TO STATE AND LOCAL WRITTEN COMMENTS

Comments:

New Hampshire Department of Resources
and Economic Development
Commissioner George C. Jones

1. This Department supports and endorses the New Hampshire Coastal Program. We look forward to participating in its implementation.

2. There is one policy statement that we feel should be revised somewhat. The second statement on page 4-1 reads "State lands on the coast devoted to recreation or conservation are not available for private development activities". We feel that this should be restated to reflect the difference between conservation and recreation management objectives. The following two statements are suggested:

a. State lands on the coast may be available for commercial activities that directly support the public recreation purpose.

b. State lands on the coast devoted to conservation are not available for private development activities.

Responses:

Thank you. No response necessary.

We agree with your recommended changes and have incorporated them into Policy 13 and page 4-1 respectively.

Comments:

3. Page 3-23. Public Lands, Atlantic Shoreline. Item B-3 Hampton Beach State Park. To more clearly define this multi-site facility, we suggest the following description:

Hampton Beach State Park, including: Hampton North Beach (B-6), Hampton Main Beach (B-5), Hampton Beach and Bathhouse (B-3, P-2), Hampton Beach Dock/Launch (C-3, P-1)

Items B-11 through B-14 and B-18 through B-20 and B-22 are not DRED areas.

Item R-2 - This area is part of Hampton Beach State Park (B-16).

Item R-4 - These two islands are part of the Wentworth-Coolidge Mansion property (B-27).

Items P-1 and P-2 - These parking areas are part of Hampton Beach State Park (B-3).

4. Page 4-4. The Administrative Agency listed under the archeological excavation category should be changed from DRED to the Division of Historical Resources.

5. Pages 5-10 and 5-11. Where reference is made to the Division of Parks, it should read Division of Parks and Recreation.

6. Page 5-11. DRED representation on Boards. Council on Resources and Development - delete the reference to the Division Directors and add that the Commissioner is a member.

7. Page 8-29. Delete the asterisks in front of the Director, Division of Parks and Recreation and Director, Division of Forests and Lands.

Responses:

These suggestions are incorporated.

This suggestion is incorporated.

This suggestion is incorporated.

This suggestion is incorporated. The Council on Resources and Development membership was changed in 1987; The Commissioner of the Department of Resources and Economic Development is now a member instead of the Division Directors.

The asterisks have been removed.

Comments:

8. Pages 8-42 and 8-43. The following additional information has been provided by the New Hampshire Natural Heritage Inventory, DRED:

Adams Point. In addition to Hairy Brome Grass and Lined Bulrush there are two other species present, Lens Sedge (Carex lenticularis var albimontana) and Robust Knotweed (Polygonum robustius).

Crommet Creek. In addition to Prolific Knotweed, Saltmarsh Gerardia and Dwarf Glasswort there are three other species and one community present, Southern New England Talus Forest/Woodland, Great Blue Heron (Ardea herodias) rookery, Four-toed Salamander (Hemidactylium scutatum), and Hog-nosed Snake (Heterodon platyrhinos).

Lubberland Creek. Only the Marsh Elder is known from this site, the other species listed (plus three others not listed) are actually on Moody's Point.

Nannie Island. Perhaps a part of Pease AFB, this island was a site for Common Tern (Sterna hirundo) in 1980.

Responses:

Thank you for the information, it has been added to Chapter 8.

Comment noted.

Comments:

New Hampshire Department of
Transportation
Commissioner Wallace E. Stickney,
P.E.

We find the proposed program retains the concept of coordination of our projects with the aspects of other development or protection of resources as in the current Ocean and Harbor segment of the Coastal Plan.

We have been operating under the current Ocean and Harbor segment since completion of the related FEIS in 1982. It is a real demonstration of how coordination can manage development and balance the need for public investment with the desire for resource protection in sensitive areas.

Conservation Law Foundation of New
England, Inc.
Paul Hauge, Staff Scientist

1. CLF is pleased to see the New Hampshire Office of State Planning's proposal to extend the coverage of the Coastal Program to include the Great Bay area.

Responses:

Thank you. No response necessary.

Thank you. No response necessary.

Comments:

2. The proposed program divides this coordination function between two State offices, the Office of State Planning and the Council on Resources and Development (CORD). CLF see potential problems with this arrangement, under which two different entities, each with a variety of responsibilities that do not involve the coastal zone, share the task of insuring that all state agencies and decisions are consistent with the Coastal Program and its policies. In Massachusetts, and in many other states with approved coastal zone management programs, a single state office is responsible for coastal zone coordination, with no other additional or conflicting roles. We urge you and the state to consider the advantages of this arrangement.

3. The proposed program lacks specific criteria against which projects or activities in the coastal zone are to be judged. The general policy statements spelled out in Chapter 3 of the DEIS should be supplemented with detailed criteria, consistent with those policies, that will send clearer signals about what will and will not be allowed in the coastal zone.

New Hampshire Audubon Society
Jacquelyn L. Tuxill, Director

1. We wholeheartedly support the proposed addition of the Great Bay and Little Bay estuarine systems to the existing New Hampshire Coastal Program.

Responses:

The Office of State Planning (OSP), through its coastal program staff, conducts the day to day coordination and management of State and Federal activities on the coast. The OSP, as part of the Executive Department, is best suited for interagency coordination since it also functions as the State clearing house for the Intergovernmental Review Process as well as being the lead agency for State development planning, recreation policy planning and community and regional technical assistance. When conflicts arise which cannot be resolved by the coastal program staff, an interagency board, the Council on Resources and Development (CORD), is charged with resolving those conflicts. The Director of OSP is, by State statute, the chairman of CORD. Further, the OSP staff acts as the staff for CORD. Comprehensive coastal legislation (HB 423), similar to that of other states, was defeated by the legislature in 1981.

The specific criteria against which projects or activities are to be judged are contained in the State laws listed under each policy as Key State and Federal Authorities.

Thank you. No response necessary.

Comments:

2. Description of Coastal Area, page 1-2 and 1-3. The description of the coastal area is misleading in several ways. The discussion of the Atlantic shoreline does not convey the full picture of the development in the area and what it means for the seacoast as a functioning ecosystem. Development has essentially destroyed the barrier beach of the New Hampshire coast. The DEIS noted that the beach fronts are largely in public ownership, but it did not indicate that the only dune areas remaining undeveloped are the foredunes and back dunes in Seabrook and the foredunes in Hampton Beach State Park.

3. The description of the Great Bay estuary also needs some clarification. There is no mention of the significant shoreline area owned by Pease Air Force Base.

4. It is also unclear just what type of protection is implied by the sentence on page 1-3, "The undeveloped estuarine areas are protected as significant wildlife and marine species habitats."

5. We understand that one of the objectives of the New Hampshire Coastal Program is to insure a certain measure of protection to the Great Bay area, but we don't believe that protection necessarily exists in large measure at this time. It would be helpful to have the same analysis of shoreline ownership (which gives an idea of development potential) for the tidal estuaries and rivers as is presented for the Atlantic shoreline.

Responses:

Additional discussion of the Atlantic coast has been added.

A description of Pease Air Force Base has been added. See revised text.

See clarification to pages 1-3 and 1-4.

See response to #4, above.

See revised text on pages 3-33 and 3-34.

Comments:

6. Because development pressures are so great in the coastal area and because a healthy resource base is so essential, we would like to see greater discussion of the positive long-term public benefits of protecting and preserving coastal resources and greater emphasis placed on preserving resource integrity in implementation of the New Hampshire Coastal Program.

7. Policy 2: Fish and Wildlife Management (page 3-9). The rationale for this policy should mention the unique and important habitat for wildlife that is found within the coastal and estuarine areas.

8. There should be a mention of New Hampshire Fish and Game Department's responsibilities for protecting wildlife, both game and nongame species, and for protecting wildlife habitat. These responsibilities were omitted entirely in the DEIS.

9. Policy 5: Rare and Endangered Species (page 3-14). We recommend that the explanation for the policy be rewritten for clarification. The Federal Endangered Species Act (ESA) should be discussed first. Although the mention of the Federal Highway Administration and the U.S. Army Corps of Engineers is correct, the U.S. Fish and Wildlife Service has overall responsibility for implementation of the ESA, including the listing of species, identification of habitat, management activities and enforcement.

Responses:

See additions to the Explanation of Policy #1, Chapter 3.

See revised text.

See revised text.

See revised text to Policy #5.

Comments:

10. The two federally listed species mentioned in the DEIS are more than just transient visitors. The Piping Plovers have historically nested in the seacoast area, and there has been evidence of attempted nesting as recently as 1984. Great Bay provides the most important wintering area in the State for the Bald Eagle, and numbers of Bald Eagles using the area in the winter have increased in recent years. In addition the shortnose sturgeon should be mentioned as a federally listed species.

11. There should also be mention of the New Hampshire Native Plant Protection Act, enacted in 1987, which establishes protection for the state's threatened and endangered plant species. While the species list has yet to be finalized, it could be important to policy 5.

12. We would suggest that the state not build any structure in the floodplain (p. 3-37), even if it is consistent with the standards of the National Flood Insurance Program, in order to provide a positive role model in support of Policy 9. We would also suggest a prohibition on the rebuilding of barrier beaches after destruction of development by hurricanes. This would allow for restoration of barrier beaches and their storm protection benefits to coastal resources and to the public.

Responses:

See revised text on page 3-14.

The Act has been added to Policy #6.

See revised text on page 3-40.

Comments:

13. Policy 11: Water Quality (page (3-39)). It is important that water quality and quantity be protected in the coastal area; therefore Policy 11 should also address water quantity issues. Additional discussion is needed about the status in the coastal area of the groundwater mapping program being carried out by the Water Resources Division of the Department of Environmental Services. This program will provide information essential to ensuring future water supplies in this fast-growing region of the state. Two other potential problems which we would like to see addressed in the discussion are agricultural runoff (mentioned but not discussed) and salt intrusion into coastal wells, something which has happened in the past.

14. Policy 14: Dredging and Dredge Spoil Disposal (page 3-50). The policy statement mentions protecting fish and wildlife resources from adverse effects of dredging and dredge disposal, yet there is no mention in the discussion of how that will be provided. There is potential for dredging activities to effect two federally threatened species, the Piping Plover and the shortnose sturgeon, which would necessitate coordination with the New Hampshire Fish and Game Department or the U.S. Fish and Wildlife Service.

15. With regard to dredge spoil disposal and beach renourishment and the potential for dredged materials to contain hazardous materials, the discussion should cover public health concerns and the procedures for ensuring that public health and coastal resources are not threatened.

Responses:

See revised text on pages 3-43 and 3-44.

Due to the State's topographic relief and the amount of precipitation received, salt water intrusion does not appear to be a significant problem in New Hampshire. Problems with high chloride or sodium levels are predominately due to local concentrations attributable to water softener system discharges and road salt runoff.

See response to Comment #10, Department of Interior, page VIII-11.

Dredge spoil considered for beach renourishment is tested for suitability by the Corps of Engineers.

Comments:

16. Policy 16: Research and Education (page 3-63). In describing the research conducted by New Hampshire Fish and Game Department, we suggest the following be substituted for the sentence on the Endangered Species Program:

"In addition to these efforts, the New Hampshire Audubon Society conducts research on threatened and endangered species in the coastal area in cooperation with the Fish and Game Department. Fish and Game is also undertaking a study of the shortnose sturgeon."

17. In describing the education/interpretation programs of the Fish and Game Department and the Department of Resources and Economic Development (page 3-65), we suggest the following to describe the operation of the Nature Center at Odiorne State Park:

"The Division of Parks within DRED is a partner, along with the UNH Sea Grant Extension Program and the Audubon Society of New Hampshire, in the operation of the Nature Center at Odiorne State Park. The Nature Center conducts a variety of interpretive programs on the marine environment. During the summer of 1986, ..."

18. On page 3-66, we suggest that mention of the Audubon Society be changed to read "... the Audubon Society of New Hampshire and its Seacoast Chapter sponsoring regularly scheduled field trips and lectures;"

Responses:

The suggested wording has been incorporated.

The suggested wording has been incorporated.

The suggested wording has been incorporated.

Comments:

19. The Executive Director (Fish and Game Department) is charged with control of fish and wildlife resources not just game resources. Also, there are other important programs and activities carried out by Fish and Game in addition to the activities of the Division of Marine and Inland Fisheries, including regulation of hunting and trapping, education, and endangered species research and management. These should all be mentioned.

20. Summary of State Statutes, Key Regulatory Agencies and Programs (Figure 5-2, B-3, page 5-20). In discussing Fish and Game Department statutory authority, mention of responsibility for endangered species protection and management (RSA 212-A) was omitted. This information should be included.

21. Chapter 8, Special Requirements, Resources in the National Interest (page 8-4). In discussing wetlands (f), the DEIS states that national interest consideration is met through the permit processes established under federal and state law. New Hampshire Audubon believes strongly that until the loss of coastal wetlands is halted, whether the loss is occurring through the state permit process or through Section 404 implementation by the U.S. Army Corps of Engineers, the national interest is not being met. We ask that the loss of coastal wetlands through development be discussed in section (f) and that the New Hampshire Coastal Program recognize its role in halting this trend in the discussion on continued consideration of resources in the national interest (section e, page 8-6).

Responses:

These changes have been made to Figure 5-1.

Thank you. RSA 212-A has been added.

We believe the State's Wetland Law, RSA 483-A, provides adequate protection of coastal wetlands. As part of approving the Ocean and Harbor Segment of the New Hampshire Coastal Program new administrative rules, Chapter 600 - Coastal Wetlands - were adopted. These rules prohibit almost all major alterations of tidal wetlands such as dredging or filling, except where there is an overriding public benefit. While it might be desirable to prohibit all alteration of tidal wetlands, there are cases where the public benefit may outweigh the environmental loss (such as the placement of bridge supports). Case law has upheld the denial of a permit to fill tidal wetlands for housing.

A discussion of the Coastal Program's continuing consideration of resources in the national interest has been added to Chapter 8, section A page 8-4.

Comments:

22. In discussing (g) on page 8-4, we would suggest that the section be titled "Fish and Wildlife Resources" instead of "Living Marine Resources." There should be mention of the importance of the coastal and estuarine habitat for the many diverse wildlife species that use the area, not just the marine species.

23. A section (h) should be added to and entitled "Great and Little Bay Estuarine System." The size of this ecosystem and the fact that it is one of the largest on the eastern coast of the U.S. argue for separate discussion as a resource in the national interest. There should also be an item of discussion on the estuarine system under continued consideration of the national interest (page 8-5, add new section f). The discussion should include mention of the proposal for a National Estuarine Reserve.

24. The geographic areas of particular concern have been identified in the DEIS by categories. While that is satisfactory to New Hampshire Audubon in certain instances, such as with coastal and estuarine waters, we believe that there should be some way of identifying truly sensitive areas that need special protection, such as a critical floodplain or especially productive saltmarsh. The areas of particular concern should also be either mapped or listed so that their locations are known.

Responses:

The suggested changes have been made.

Section (h) "Great and Little Bay Estuarine System" has been added to the text on page 8-5.

The Federal National Estuarine Research Reserve designation for Great Bay has been mentioned in section (f).

The Federal Coastal Zone Management Regulations allow States the option of designating geographic areas of particular concern on a site specific or generic basis.

Comments:

25. We are also puzzled by both the high priority/low priority listing of activities in the general resource categories. In our opinion, projects which are "deleterious to water quality" (coastal and estuarine waters), would cause "habitat destruction" (tidal and freshwater wetlands), would "further destroy dune areas" (beach and sand dunes), or would "destroy the value" (unique natural areas), should not be classified low priority, but should be prohibited. Policy 1 provides the basis for listing activities as allowed/prohibited, and we ask that this or something similar be used rather than high priority/low priority.

26. The discussion of areas for preservation and restoration on page 8-42 outlines criteria and a procedure for designating areas to preserve or restore. This could provide a means of meeting the concern expressed above for specific sensitive areas, if it weren't for criterion c) which says that the area must be degraded or threatened with degradation or development to be considered. This requirement seems to defeat entirely the purpose of Policy 1. It could certainly be more costly to wait until an area is degraded and restoration is needed or to have to move quickly because an area is threatened by development, rather than working systematically to protect sensitive areas through the variety of land protection tools that are currently available. In addition, there are private organizations that work with the State to protect land in ways other than outright acquisition. Criterion d) would not seem to provide for alternative means of protection.

Responses:

There is a balancing called for in the CZMA between coastal development and natural resource protection. Although there is a strong bias in the regulations toward natural resource protection, in particular, uses of regional benefit (see Chapter 8, Section A), may be allowed even if they damage natural resources. Under State law such activities are required to ameliorate negative impacts to the maximum extent practicable.

We agree. Criterion c) has been deleted. A new criterion has been added: "must be either acquirable by a State agency, regulated by State statute, or owned fee or less than fee simple (i.e. conservation easement, purchase of development rights) by a non-profit conservation group."

Comments:

27. Description of Affected Environment, Part IV. On page IV-3, the following species should be added to the list of state or federally listed endangered or threatened species found in the coastal area: Piping Plover, Common Tern, and Least Tern.

28. Finally, there are inconsistencies throughout the DEIS in the naming of New Hampshire state agencies. Several agencies have undergone reorganization in recent years, resulting in name changes. The DEIS should be reviewed for appropriate and consistent naming.

State of Maine

Executive Department
State Planning Office
David Keeley, Director
Maine Coastal Program

As requested, we have reviewed the boundaries proposed for the New Hampshire Coastal Program as described in the report of May, 1987. We find that the boundaries are compatible with the boundaries of Maine's Coastal Program.

Responses:

The species have been added.

The changes have been made.

Thank you. No response necessary.

SECTION III Responses to Testimony at Federal Hearing on DEIS

Comments:

Responses:

Peggy McLaughlin

Dover Conservation Commission

The Conservation Commission believes the amended coastal program will help control development pressure on the coastal rivers within the second tier inland boundary.

Thank you. No response necessary.

Jack Mettee

Resident and Former N.H. Coastal Program Manager

He wanted to thank the Office of State Planning for their hard work on the amendment and thank the OCRM on its patience with the State. He believes the amended coastal program will be a positive influence on managing the State's coastal resources.

Thank you. No response necessary.

Maryanna Hatch

Great Bay Trust

The Great Bay Trust believes the amended coastal program, working with the Estuarine Research Reserve, will protect the Great Bay area. She wishes all of this had taken place sooner since environmental damage and unsuitable development has already occurred.

Thank you. No response necessary.